

THE WESTERN PACIFIC RAILROAD COMPANY

WESTERN PACIFIC BUILDING, 526 MISSION STREET
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE: (415) 982-2100

WALTER G. TREANOR
VICE PRESIDENT-LAW

July 19, 1979

KATHERINE M. GRIFFIN
GENERAL ATTORNEY
MICHAEL P. HEARNEY
EUGENE J. TOLER
ATTORNEYS

File: 6116-63

9-204AC47

DELIVER TO:

Honorable H. G. Homme, Jr.
Secretary

Interstate Commerce Commission

Washington, D.C. 20423

RECORDATION NO. 8854 Filed 1425

JUL 23 1979 12 50 PM

INTERSTATE COMMERCE COMMISSION

Date JUL 23 1979

Fee \$ 10.00

CC Washington, D. C.

Dear Sir:

Enclosed for recording with the Interstate Commerce Commission are the original and two (2) certified true copies of an Assignment and Assumption Agreement dated April 4, 1979 between The Western Pacific Railroad Company, a California corporation, 526 Mission Street, San Francisco, California 94105 as Assignor and The Western Pacific Railroad Company, a Delaware corporation (formerly Newrail Company, Inc.) as Assignee, 526 Mission Street, San Francisco, California 94105 wherein the Assignor assigned and the Assignee assumed that certain Conditional Sale Agreement dated as of April 15, 1977 among Whitehead & Kales Company, 58 Haltiner, River Rouge, Michigan 48218 and U. S. Railway Equipment Company, 2200 East Devon Avenue, Des Plaines, Illinois 60018, as Vendor, and Assignor as Purchaser. Prior recording data:

<u>Document</u>	<u>Date</u>	<u>Recordation No.</u>
Conditional Sale Agreement	May 15, 1977	8854
Agreement & Assignment	May 15, 1977	8854-A
Statement of New Numbers	July 20, 1977	8854-B

The document relates to the following railroad equipment:

- 10 Tri-level auto rack cars, Railroad Serial Numbers WP R-601 through WP R-610, both inclusive.
- 48 50' 1" 70-ton insulated boxcars, Railroad Numbers WP 60001-60003, 60005-60038, 60040-60050, both inclusive

RECEIVED
JUL 23 12 47 PM '79
I.C.C.
FEE OPERATION BR.

Honorable H. G. Homme, Jr.
July 19, 1979
Page 2

Identifying marks: The words "Western Pacific"
and the words "Independence Savings Bank, Owner"
printed on each side of each unit.

Also enclosed is this Company's voucher in the sum
of \$10.00 payable to the Interstate Commerce Commission
being the prescribed fee for filing and recording the
foregoing document.

Please return the original and counterpart with
recording data stamped thereon to the representative
of the office of Kunkel Transportation Services, Inc.,
425 - 13th Street, N.W., Suite 523, Washington, D.C.
20004, who will be delivering this letter on our behalf.

Yours very truly,

Katherine M. Griffin

Katherine M. Griffin

KM G:jc

Attachments

July 79

THE WESTERN PACIFIC RAILROAD COMPANY

CHECK NO.

42995

INVOICE DATE	INVOICE NO.	AMOUNT	DISCOUNT	NET AMOUNT	DUE DATE
Recordg Fee		10.00		10.00	

RECORDATION NO. 8854-C Filed 1425

ASSIGNMENT AND ASSUMPTION AGREEMENT

JUL 23 1979 - 12 50 PM
INTERSTATE COMMERCE COMMISSION

1. PARTIES

This Assignment and Assumption Agreement is made this fourth day of April, 1979, between THE WESTERN PACIFIC RAILROAD COMPANY, a California corporation (Assignor), and THE WESTERN PACIFIC RAILROAD COMPANY, a Delaware corporation, formerly named Newrail Company, Inc. (Assignee).

2. FACTS

2.1 Assignor is party to a Conditional Sale Agreement with Whitehead and Kales Company, and United States Railway Equipment Company, which assigned their interests therein to Independence Savings Bank, effective April 15, 1977, recorded with the Interstate Commerce Commission on June 13, 1977, Recordation No. 8854 and No. 8854-A, which were supplemented by a Statement of New Numbers dated July 20, 1977, recorded with the Interstate Commerce Commission on July 20, 1977, Recordation No. 8854-B, hereinafter collectively referred to as the "Agreement."

2.2 By a Purchase and Sale Agreement dated February 16, 1978, Assignor has agreed to sell substantially all of its assets, properties and rights of every kind and description, and business as a going concern to Assignee, and Assignee

has agreed to assume, with certain exceptions, all of the duties, liabilities and obligations of Assignor.

2.3 Pursuant to the Agreement described in Paragraph 2.2, Assignor desires to assign its interest in the Agreement, and Assignee desires to assume the obligations of Assignor thereunder.

3. ASSIGNMENT AND ASSUMPTION

3.1 Assignment. Assignor hereby sells, assigns and transfers to Assignee, its successors and assigns, all of its right, title and interest under the Agreement.

3.2 Assumption. Assignee hereby assumes and agrees to perform, fulfill and discharge in accordance with the terms of the Agreement, at the sole cost of Assignee, each and all of the obligations, covenants, terms and conditions to be kept or performed by Assignor under the Agreement, including, but not limited to (if applicable), Basic Rent, all Supplemental Rent and Casualty Value. Assignee will, at its sole cost and expense, appear in and defend every action or proceeding arising under, growing out of, or in any way resulting from, the Agreement, or the duties, obligations or covenants of Assignor thereunder, and to pay any and all amounts for which Assignor or Assignee may be held liable in respect thereof, including the payment

of all reasonable attorneys' fees incurred by Assignor in any such action or proceeding.

4. APPOINTMENT OF ATTORNEY IN FACT

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney, irrevocably, with full power to ask for, and receive, any property, or refund monies to which Assignor is entitled under the Agreement, or to enforce any and all other rights or privileges of Assignor under the Agreement.

5. MISCELLANEOUS

5.1 Assignee shall notify all other parties to the Agreement of this Assignment and Assumption Agreement, and shall cause this Assignment and Assumption Agreement to be recorded with the Interstate Commerce Commission promptly after the execution and delivery hereof.

5.2 Any provision of this Assignment and Assumption Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision

in any other jurisdiction. To the extent permitted by applicable law, Assignor hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

ASSIGNOR:

THE WESTERN PACIFIC RAILROAD
COMPANY, a California corporation

By

Its

W. H. Humber, Jr.
Sr. Vice President - Finance

Attest

Its

H. D. Brew
SECRETARY

ASSIGNEE:

THE WESTERN PACIFIC RAILROAD
COMPANY, a Delaware corporation
(formerly named Newrail Company,
Inc.)

By

Its

W. H. Humber, Jr.
Sr. Vice President - Finance

Attest

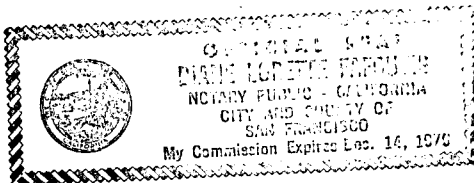
Its

H. D. Brew
SECRETARY

STATE OF CALIFORNIA)
) ss
CITY AND COUNTY OF SAN FRANCISCO)

ON April 2, 1979, before me, the undersigned, a Notary Public in and for the said State, personally appeared R. W. STUMBO, JR. and W. D. BREW, known to me to be the persons who executed the within Instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

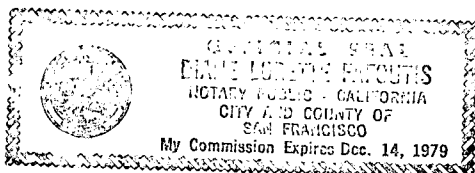


Diane Lorette Lafontis
Notary Public in and for said State

STATE OF CALIFORNIA)
) ss
CITY AND COUNTY OF SAN FRANCISCO)

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